

quinn emanuel trial lawyers | new york

51 Madison Avenue, 22nd Floor, New York, New York 10010-1601 | TEL (212) 849-7000 FAX (212) 849-7100

WRITER'S DIRECT DIAL NO.
(212) 849-7345

WRITER'S INTERNET ADDRESS
danbrockett@quinnemanuel.com

February 10, 2014

VIA ECF

Honorable Lorna G. Schofield
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Employees' Retirement System of the Government of the Virgin Islands v. Barclays Bank*, 13 Civ. 9125 (LGS); *Prudent Forex Fund LLC v. Barclays Bank*, 13 Civ. 9237 (LGS); *State-Boston Retirement System v. Barclays Bank*, 14 Civ. 475 (LGS); *Five Star Forex L.P. v. Barclays Bank*, 14 Civ. 494 (UA); *Newport News Employees' Retirement Fund v. Barclays Bank*, 14 Civ. 752 (UA); *Aureus Currency Fund, L.P. v. Barclays Bank*, 14 Civ. 825 (UA)

Dear Judge Schofield:

This letter is submitted jointly on behalf of the four law firms who represent the Plaintiffs in the above-referenced matters: Quinn Emanuel Urquhart & Sullivan, LLP ("Quinn Emanuel"), Labaton Sucharow LLP ("Labaton Sucharow"), Robbins Geller Rudman & Dowd LLP ("Robbins Geller"), and Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein").¹ We write in response to the Court's January 28, 2014 Order directing the parties to file letters setting forth their proposals for appointment of interim lead class counsel. After extensive consideration and discussions, undersigned counsel respectfully submit that the interests of the proposed class would be best served by appointing Quinn Emanuel, Labaton Sucharow, Robbins Geller, and Cohen Milstein as interim lead class counsel under Rule 23(g)(3). These firms collectively have

¹ In addition to the cases identified above, Quinn Emanuel will be filing a complaint on behalf of The City of Philadelphia, Board of Pensions and Retirement – an entity that entered into hundreds of millions of dollars of potentially affected foreign exchange transactions with the Defendants here. We anticipate this complaint will be filed as a related matter on February 11, 2014.

the greatest breadth and depth of resources and the right expertise and experience to prosecute this action. We would be pleased to present formal briefing in support of our appointment as interim lead class counsel, which would expand on the arguments outlined below.²

Given that this litigation involves a multi-country anticompetitive conspiracy affecting trillions of dollars of commerce and implicating at least seven major banks, each of which has retained at least one and possibly more major New York law firms, the appointment of these four law firms to represent the Class is warranted. Nearly all other firms in the case support our proposal, including counsel for eight of the twelve cases filed to date.³

Quinn Emanuel is the largest firm in the world devoted solely to business litigation, with nationally-recognized antitrust, banking, and class action litigation practices. The firm has over 650 attorneys worldwide and over 225 attorneys in its New York office. Quinn Emanuel also has an office in London, which will be a focus of discovery efforts in this case. The firm has built its reputation on its ability to win high-stakes cases against the most formidable adversaries, including the very financial institutions the proposed class faces here. This past year Quinn Emanuel was again recognized by an industry publication as one of just four U.S. firms that in-house counsel “fear the most.” The firm’s lawyers have tried over 2,200 cases and won over 88% of them. When representing plaintiffs, the firm has won billions in judgments and settlements. The firm also offers the class one of the nation’s leading Second Circuit and Supreme Court appellate practices, headed by Kathleen Sullivan.

This case is squarely in Quinn Emanuel’s sweet spot, combining its leading structured finance, antitrust, and class action practices. The firm’s bank litigation practice is the premier practice of its kind. Quinn Emanuel has been at the forefront of litigation relating to financial misconduct by the world’s largest banks. Among the firm’s many cases are those brought in this District on behalf of the Federal Housing Finance Agency, as Conservator for Fannie Mae and Freddie Mac, alleging securities violations arising out of the sale of residential mortgage-backed securities. These cases have yielded over \$7 billion in settlements. In recognition of its expertise at the intersection of finance and antitrust, Judge Cote recently appointed Quinn Emanuel interim lead counsel in another antitrust class action against these major banks, *In re Credit Default Swaps Antitrust Litigation*, No. 13 Md. 2476 (S.D.N.Y.). Judge Cote stressed certain of the firm’s strengths, which are equally applicable here:

[Quinn Emanuel] has a track record, a knowledge of the CDS market and antitrust litigation. It’s well equipped with trial lawyers who can actually go into court and try a case. It has run massive discovery cases by itself essentially. And it has extraordinary strengths with respect to appellate litigation. . . . It has European

² Undersigned counsel respectfully request leave to exceed the three-page limit for pre-motion letters set forth in Your Honor’s Individual Rules in light of the fact that we are combining the applications of four different firms into a single letter for the Court’s convenience.

³ The firms supporting this proposal include the undersigned as well as Berger & Montague P.C.; Entwistle & Cappucci LLP; Fine, Kaplan & Black, R.P.C.; Gold Bennett Cera & Sidener LLP; Miller Law LLC; and Motley Rice LLC – all respected firms in their own right.

offices. It has a substantial New York presence. It's familiar with litigating against these very banks. It's familiar with litigating in this courthouse.⁴

Labaton Sucharow is a 60-attorney antitrust and securities class action law firm headquartered in New York. Regularly recognized as one of the top plaintiffs' law firms in the nation, it has successfully prosecuted many complex antitrust class actions. Labaton Sucharow has served as lead counsel in numerous major international antitrust cases including *In re Air Cargo Shipping Services Antitrust Litigation*, No. 06 Md. 1775 (E.D.N.Y.) (recovered nearly \$700 million to date), *In re Natural Gas Commodity Litigation*, No. 03 Civ. 6186 (S.D.N.Y.) (recovered \$101 million), and is counsel in *In re North Sea Brent Crude Oil Futures Litigation*, No. 13 Md. 2475 (S.D.N.Y.) – all multi-district litigations here in New York. Labaton Sucharow also brings commodities litigation experience to this case.

Labaton Sucharow's numerous antitrust victories in those cases and others have earned it recognition as "one of the most feared plaintiff's firms," as well as inclusion on the *National Law Journal's* "Plaintiffs' Hot List" for an eighth consecutive year. *The Legal500* has ranked it as one of the leading plaintiff class action antitrust firms in the United States for the last four years, *Benchmark* has ranked it on its first tier for antitrust for the last three years, and it was recognized as *Law360's* Class Action Practice Group of the Year in 2012. The firm brings specialized government experience to this matter: Jay Himes is the former Bureau Chief of the New York Attorney General's Office's Antitrust Bureau, and Gregory Ascioia is a former trial attorney with the U.S. Department of Justice's Antitrust Division in Washington, DC.

Robbins Geller is a national law firm with offices throughout the country and almost 200 attorneys. The firm's attorneys, including numerous former prosecutors,⁵ have extensive experience litigating financial fraud and antitrust suits to trial. As one of the largest plaintiffs' law firms, Robbins Geller has the resources to litigate against the Defendants here. Robbins Geller also has extensive experience *winning* antitrust class actions in the financial services industry. Recently, as co-lead counsel the firm obtained the largest ever antitrust settlement before Judge Gleeson in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 05 Md. 1720 (E.D.N.Y.) (\$5.7 billion recovery). The firm was also lead counsel in a number of other successful class cases, including *In re NASDAQ Market-Makers Antitrust Litigation*, No. 94 Md. 1023 (S.D.N.Y.) (\$1.027 billion recovery), and *In re Currency Conversion Fee Antitrust Litigation*, No. 01 Md. 1409 (S.D.N.Y.) (\$336 million).

That experience, coupled with the firm's preeminent securities litigation practice, positions Robbins Geller to lead a class of investors injured as a result of anticompetitive conduct in a financial market. As the court observed in *In re Enron Corp. Sec. Derivatives & "ERISA" Litigation*, 529 F. Supp. 644, 675 (S.D. Tex. 2006), Robbins Geller is "comprised of probably

⁴ *In re Credit Default Swaps Antitrust Litig.*, 13 MD 2476 (DLC) (docket no. 244) (Tr. of Dec. 5, 2013 Hr'g 37:9–38:12). Quinn Emanuel has also served as lead counsel in a number of other antitrust class actions, and the firm has specific experience litigating cases about foreign exchange transactions, including in *Kirschner v. Bennett*, No. 07 Civ. 8165 (S.D.N.Y.).

⁵ The Robbins Geller counsel who will be litigating this case, Patrick J. Coughlin and David W. Mitchell, are both former federal prosecutors.

the most prominent securities class action attorneys in the country.” Reflecting the firm’s resources, experience, expertise, and litigation success, Judge Pauley of this District has praised Robbins Geller for providing “extraordinarily high-quality representation,” and “vigorously litigat[ing] every issue against some of the ablest lawyers in the antitrust defense bar” through “enormous attention to detail and unflagging devotion to the cause.” *In re Currency Conversion Fee Antitrust Litig.*, 263 F.R.D. 110, 129 (S.D.N.Y. 2009).

Cohen Milstein is a national law firm with 70 attorneys nationwide, including in New York. It is well-known for working cooperatively with counsel, having been appointed co-lead in a number of antitrust class actions, including *In re Vitamins Antitrust Litigation*, No. 99 Md. 1285 (D.D.C.) (recovered \$1.1 billion in settlements and a \$148 million trebled verdict), *In re Electronic Books Antitrust Litigation*, No. 11 Md. 2293 (S.D.N.Y.) (recovered over \$95 million), *In re Rubber Chemicals Antitrust Litigation*, No. 04 Civ. 1648 (N.D. Cal.) (recovered \$320 million in settlements), and *Pemiscot Memorial Hospital v. CSL Ltd. (Plasma-Derivative Protein Therapies Antitrust Litigation)*, No. 09 Civ. 3748 (E.D. Pa.) (recovered \$126 million in settlements). Recently, in *In re Urethane Antitrust Litigation*, No. 04 Md. 1616 (D. Kan.), a jury awarded a class of plaintiffs represented by Cohen Milstein as co-lead counsel a \$1.2 billion trebled verdict in a price-fixing case against Dow Chemical and four other companies. J. Douglas Richards, managing partner of the New York office, previously served as the Deputy General Counsel of the Commodity Futures Trading Commission and will bring experience in commodities litigation to the case. *Law360* recently named the firm as one of ten firms named “practice group of the year” for antitrust, and *The Legal500* has ranked it as one of the leading plaintiff’s class action antitrust firms in the United States.

Together, these four firms have a proven track record of success – including at trial – in complex matters involving antitrust, financial instruments, commodities, and benchmark manipulation. These firms’ ability to take difficult, complex cases to trial sets these firms apart, as do the breadth and depth of resources these firms marshal. This case will require resources sufficient to litigate against the well-funded army of skilled lawyers retained by the Defendants. This case will require demonstrated expertise in this District, and a national *and international* reach. Should the interests of the class need to be defended on appeal, Quinn Emanuel’s appellate abilities are second to none, especially in the Second Circuit. Our firms have worked successfully and efficiently with co-leads in the past, and we are confident we would work cooperatively and productively together if appointed joint interim lead class counsel.

Our firms have conducted an extensive pre-complaint investigation into Defendants’ misconduct and its effect on foreign exchange rates, which has resulted in the most sophisticated complaints filed to date. We have worked with leading economic consultants to identify potential manipulation around the 4 p.m. fixing on each day for the entirety of the class period. As a result of that analysis, we have already been able to determine the specific days on which collusion occurred, and even estimates of the quantum of the collusive manipulation.

Our firms also represent the largest plaintiffs that have filed, or will be filing, these cases and the type of entities that will be the best and most effective class representatives.

We stand ready to expand upon any of the foregoing and answer any questions the Court may have at the upcoming February 13 conference. We also welcome the opportunity to provide more detailed briefing on the strengths of our firms if the Court so wishes.

Respectfully submitted,

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

/s/ Daniel Brockett

DANIEL L. BROCKETT
STEIG D. OLSON
51 Madison Avenue, 22nd Floor
New York, New York 10010
Telephone: (212) 849-7000
Fax: (212) 849-7100
danbrockett@quinnemanuel.com
steigolson@quinnemanuel.com

**ROBBINS GELLER RUDMAN &
DOWD LLP**

PATRICK J. COUGHLIN
30 Vesey Street, Suite 200
New York, New York 10007
Telephone: (212) 693-1058
Fax: (212) 693-7423
patc@rgrdlaw.com

LABATON SUCHAROW LLP

LAWRENCE A. SUCHAROW
GREGORY S. ASCIOLLA
JAY L. HIMES
140 Broadway
New York, New York 10005
Telephone: (212) 907-0700
Fax: (212) 818-0477
gasciolla@labaton.com
lsucharow@labaton.com
jhimes@labaton.com

**COHEN MILSTEIN SELLERS &
TOLL, PLLC**

J. DOUGLAS RICHARDS
MICHAEL EISENKRAFT
88 Pine Street, 14th Floor
New York, New York 10005
Telephone: (212) 838-7797
drichards@cohenmilstein.com
meisenkraft@cohenmilstein.com

cc: All counsel of record via ECF